UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

BEULAH GATES,

) No. CV-10-264-JPH

Plaintiff,
) ORDER GRANTING STIPULATED

V.) MOTION FOR REMAND

MICHAEL J. ASTRUE,
Commissioner of Social
Security,
Defendant.

BEFORE THE COURT is the parties' stipulated motion to remand this case to the Commissioner for further administrative proceedings (Ct. Rec. 17). Jeffrey Schwab represents plaintiff. Special Assistant United States Attorney Nancy Mishalanie represents defendant. The parties have consented to proceed before a magistrate judge (Ct. Rec. 6). After considering the stipulated motion (Ct. Rec. 17),

IT IS ORDERED that the motion is GRANTED. The case is REVERSED and REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings, including:

- 1. The ALJ will conduct a new hearing and issue a new decision with respect to plaintiff's SSI and DIB claims.
- 2. The ALJ will receive any additional evidence plaintiff wishes to submit.
 - 3. The ALJ will reevaluate plaintiff's RFC.

ORDER GRANTING STIPULATED MOTION FOR ORDER OF REMAND - 1

4. At step four (and five if necessary) the ALJ will obtain vocational expert testimony consistent with the Dictionary of Occupational Titles regarding the erosion of the occupational base caused by the claimant's assessed limitations; or, if inconsistent, obtain the VE's explanation for the deviation.

Because this remand is pursuant to sentence four with a remand to the Commissioner for further proceedings (see Melkonyan v. Sullivan, 501 U.S. 89 (1991)), plaintiff is entitled to reasonable attorney's fees and costs pursuant to 28 U.S.C. § 2412 (a), (d), upon proper request to this Court.

IT IS FURTHER ORDERED:

- 1. The parties' stipulated motion for an order of remand (Ct. Rec. 17) is **GRANTED.**
 - 2. Judgment shall be entered for PLAINTIFF.
- 3. An application for attorney fees and costs may be filed by separate motion.
- 4. The District Court Executive is directed to enter this Order, enter judgment, forward copies to counsel, and **CLOSE** the file.

IT IS SO ORDERED.

DATED this 27th day of April, 2011.

23 <u>s/James P. Hutton</u>

JAMES P. HUTTON

UNITED STATES MAGISTRATE JUDGE